## Remarks

### 1. Summary of the Office Action

In the office action mailed April 20, 2007, the Examiner rejected claim 14 under 35 U.S.C. § 112, second paragraph, as allegedly lacking antecedent basis for the term "the instructing function". Further, the Examiner rejected claims 1-3, 5-7, 12, 14-15, and 20-21 under 35 U.S.C. § 102(e) as being allegedly anticipated by U.S. Patent Application Pub. No. 2004/0228292 (Edwards), the Examiner rejected claim 4 under 35 U.S.C. § 103(a) as being allegedly obvious over Edwards in view of U.S. Patent No. 6,501,740 (Sun), and the Examiner rejected claims 8-11, 13, 16-19, and 22-23 under 35 U.S.C. § 103(a) as being allegedly obvious over Edwards in view of U.S. Patent Application Pub. No. 2004/0190489 (Palaez).

### 2. Status of the Claims

Applicant has cancelled claim 20. Now pending are claims 1-19 and 21-23, of which claims 1, 15, and 21 are independent and the remainder are dependent.

### 3. Response to § 112 Rejection

As noted above, the Examiner rejected claim 14 on grounds that claim 14 referred to "the instructing function" of claim 1. The Examiner asserted that "the instructing function" lacks antecedent basis. Applicant respectfully disagrees with this assertion.

The term "the instructing function" clearly referred to the "instructing" function recited in claim 1. Claim 1 is a method claim, and so its gerund elements are understood to be functions. Consequently, one of ordinary skill in the art reading claim 14 as written would have readily understood what "the instructing function" meant with respect to claim 1.

Nevertheless, to expedite prosecution, Applicant has amended claim 14 to change the term "the instructing function" to read simply "the instructing". Applicant does not intend this



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amendment to substantively change the scope of claim 14 in any way, and so the amendment should not be construed to involve any substantive change to the claim. The amendment relates to form only.

**4. Response to § 102 Rejections**

As noted above, the Examiner has rejected each of the independent claims a being allegedly anticipated by Edwards. Applicant submits that these rejections are improper and should be withdrawn, because Edwards does not teach (expressly or inherently) the combination of elements recited in any of the independent claims.

Each of the independent claims requires at a minimum the function of a communication server instructing a user station (or a user station receiving from a communication server an instruction) to operate in a mode selected from the group consisting of half-duplex mode and full-duplex mode. In particular, claim 1 recites the "the communication server instructing at least one of the user stations to operate in a mode selected from the group consisting of half-duplex mode and full-duplex mode." Claim 15 recites "a user station receiving from a communication server an instruction indicating whether the user station should operate in a half-duplex mode or a full-duplex mode." And claim 21 recites a user station that receives "from the communication server an instruction to operate in a mode selected from the group consisting of half-duplex and full-duplex."

Edwards does not disclose this element, either expressly or inherently.

Edwards teaches that when a user initiates a dispatch session, the user may tell the system (server) that the user would like to operate in full-duplex, and the system then responsively reserves full-duplex resources and sets up the other parties to the session in full-duplex mode to the extent the other parties support being set up in full-duplex mode. Edwards explains by way



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of example that reserving resources for full-duplex operation may involve reserving a full-duplex cellular channel. Further, as for setting up the other parties in full-duplex mode, Edwards merely states "the one or more other users who are participating in the dispatch call are placed in the full duplex mode of operation by the communication system, except for any radios that cannot automatically be put into full duplex mode (and such radios simply operate in half-duplex mode). See Edwards at paragraphs 0012-0013.

In addition, Edwards teaches that, in an alternative embodiment, "each radio involved in the original dispatch call may receive a distinct audio and/or video alert indicating to the user that the originator of the dispatch call wants to go to full duplex operation", but that any radio may decide to remain in he half duplex mode. See Edwards at paragraph 0014.

These teachings of Edwards, like the remainder of Edwards, do not expressly or inherently amount to Applicant's claim feature of a communication server instructing a user station to operate in a mode selected from the group consisting of half-duplex mode and full-duplex mode.

The word "instruction" has a well understood meaning in the English language. As set forth in Webster's Ninth New Collegiate Dictionary (1990), for instance, "instruction" means (a) precept, (b) a direction calling for compliance / order, (c) an outline or manual of technical procedure, (d) a code that tells a computer to perform a particular operation, or (e) the action, practice, or profession of teaching. Putting aside the profession of teaching, which is inapposite, the definitions of "instruction" all clearly involve a direction calling for compliance. This common-use definition is also consistent with use of the term "instruction" in Applicant's specification as filed, which explains that the instruction directs the user station to operate in either half-duplex mode or full-duplex mode. (*See, e.g.*, page 10, lines 1-3).



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There is no express or inherent teaching in Edwards of the communication server (or system) providing to a user station an "instruction" that directs the user station to operate in either half-duplex mode or full-duplex mode.

Edwards' teaching at paragraphs 0012-0013 of receiving a user's request for full-duplex operation and responsively reserving resources and placing other users into full-duplex mode does not expressly involve the server providing to a user station an instruction that directs the user station to operate in either half-duplex mode or full-duplex mode. Rather, at best, it merely involves placing the other users into full-duplex mode.

Further, that teaching at paragraphs 0012-0013 does not inherently involve the server providing to a user station an instruction that directs the user station to operate in either half-duplex mode or full-duplex mode, since providing such an instruction to a user terminal does not necessarily follow from the disclosure of Edwards. It is entirely plausible within the disclosure of Edwards that the dispatch system would place each user station into full-duplex mode by simply placing a cellular telephone call to each user station, whereas, if a given user station is not capable of engaging in full-duplex communication, the dispatch system could simply initiate conventional iDen half-duplex communication to the user station. This would achieve what Edwards teaches in paragraphs 0012-0013 without involving a server providing to a user station an instruction that directs the user station to operate in either half-duplex mode or full-duplex mode. Therefore, that claim function is not inherent in these paragraphs of Edwards.

Edwards' teaching at paragraph 0014 of each radio involved in the dispatch call receiving an audio or video alert indicating to the user that the originator of the dispatch call wants to go to full duplex operation also fails to expressly involve a communication server providing a user station with an instruction that directs the user station to operate in either half-duplex mode or



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full-duplex mode. Rather, at best, it merely involves notifying the various user stations that the originator wants to use full-duplex mode. Such notification is clearly not an "instruction" as that term is well defined in the art and in Applicant's specification and claims. The highly permissive non-instructional nature of this "alert" is evident from Edwards' teaching in paragraph 0014 that a user can simply operate in half-duplex mode after receiving the alert indicating that the originator wishes to operate in full-duplex mode.

Further, this teaching in paragraph 0014 does not inherently involve the server providing to a user station an instruction that directs the user station to operate in either half-duplex mode or full-duplex mode, since providing such an instruction to a user terminal does not necessarily follow from the disclosure in this paragraph. It is clearly plausible that the dispatch system could notify a user/radio that the originator wishes to operate in full-duplex mode as described in Edwards, without the system providing the user/radio with an "instruction" that directs the user/radio to operate in that mode.

Still further, based on a full review of Edwards, Applicant submits that there is no disclosure in Edwards to achieve the invention recited by Applicant's independent claims.

Because Edwards fails to teach (expressly or inherently) the invention recited by any of Applicant's independent claims, Edwards does not anticipate the independent claims. Therefore, Applicant submits that each of the independent claims is allowable. Further, without conceding the Examiner's assertions regarding the dependent claims, Applicant submits that each of the dependent claims is allowable for at least the reason that the dependent claims depend from the allowable independent claims.



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## 5. Conclusion

For the foregoing reasons, Applicant respectfully requests favorable reconsideration and allowance of all of the pending claims.

Should the Examiner wish to discuss this case with the undersigned, the Examiner is invited to call the undersigned at (312) 913-2141.

Respectfully submitted,

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